IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE.

REVIEW PETITION NO. 42 OF 2004

IN

WRIT PETITION NO. 7266 OF 2003

Bali Saheb Vithal ..... Petitioner.

versus

Barshi Education Society & ors..... Respondents.

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Shri Uday Warunjikar for the petitioner.
Shri S.V. Pitre for Respondents 1 and 2.

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CORAM ; V.G.PALSHIKAR &
V.M. KANADE, JJ.

DATED; 14TH SEPTEMBER, 2004.

P.C.;

1. By this application the applicant seeks review of the order passed by this court on 5th April 2004 which reads thus:

> Prayer (a) of this petition would have become infructuous. Prayer (b) seeks a writ against a private institution, which cannot be issued. Hence petition dismissed."

2. The submission is prayer (a) has not become infructuous. Hence Prayer (a) reads thus:

"(a) This Honourable Court be pleased to direct Respondent Nos.1 and 2 to consider the candidature of the petitioner herein for the advertisement published in the Daily Lokmat dated 19-8-2003 for the post of B.A.B.Ed. in the subject of Marathi meant for Scheduled Tribe category candidate and to take a decision upon the same within such period as this Honourable Court may deem fit and proper."

3. An affidavit in reply has been filed by the respondent - school management, and in para 6 they have categorically stated as under :

" It is clear that because of the backlog of Scheduled Tribe, 3 posts out of 5 were reserved for the said category. I further state that 4 posts out of 5, are filled pursuant to the aforesaid advertisement and one post was kept vacant during the pendency of this petition."

The advertisement clearly speaks of filling up the backlog. Three posts are filled in by Scheduled Tribe

to which the petitioner belongs. Therefore our order that prayer (a) has become infructuous is correct.

4. In so far as the prayer (b) is concerned, it is the consistent view of this court that a writ cannot be issued against a private institution. That order also as far as this Bench is concerned, is correct. Hence Review Petition is dismissed.

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